

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

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|---|---|---------------------------------|
| UNITED STATES OF AMERICA, <i>ex rel.</i> | : | |
| DILBAGH SINGH, M.D., PAUL KIRSCH, M.D., | : | |
| V. RAO NADELLA, M.D., and | : | Civil Action No. 04-186E |
| MARTIN JACOBS, M.D., | : | |
| | : | |
| Relators, | : | |
| | : | |
| v. | : | |
| | : | |
| BRADFORD REGIONAL MEDICAL CENTER, | : | |
| V & S MEDICAL ASSOCIATES, LLC, | : | |
| PETER VACCARO, M.D., | : | |
| KAMRAN SALEH, M.D., | : | |
| and DOES I through XX, | : | |
| | : | |
| Defendants. | : | |

DEFENDANTS' JOINT MOTION TO DISMISS

Defendants Bradford Regional Medical Center ("BRMC"), V & S Medical Associates, LLC ("V & S"), Peter Vaccaro, M.D. ("Dr. Vaccarro"), and Kamran Saleh, M.D. ("Dr. Saleh") hereby jointly move the Court to dismiss the above-captioned action with prejudice pursuant to Federal Rules of Civil Procedure 9(b) and 12(b)(6). The grounds for dismissal are more particularly set forth in the Memorandum of Law separately filed in support of this motion. In support of the motion, the Defendants state:

1. The Complaint fails to comply with Federal Rule of Civil Procedure 9(b) because it fails to state averments of fraud or the circumstances of fraud with particularity as required in False Claims Act suits.
2. The Complaint fails to state a claim for which relief can be granted in that its allegations of False Claims Act violations are based on certifications that allegedly were made in a Medicare cost report that could not have been filed at the time the Complaint was filed.
3. The Complaint fails to state a claim for which relief can be granted in that there was no violation of 42 U.S.C. § 1395nn (i.e., the "Stark law"), and thus, of the False Claims Act, because it fails to allege the existence of a direct or indirect financial relationship as defined by the regulations implementing the Stark law.

WHEREFORE, Defendants Bradford Regional Medical Center, V & S Medical Associates, LLC, Peter Vaccaro, M.D., and Kamran Saleh, M.D., respectfully request that this Court dismiss Relators' Complaint with prejudice, and award such further relief as the Court deems just and appropriate.

Respectfully submitted,

By: /s/
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Dated: August 25, 2005

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Peter Vaccaro, M.D., and
Kamran Saleh, M.D.

Dated: August 25, 2005

CERTIFICATE OF SERVICE

I hereby certify that a copy of the attached document was filed electronically with the United States District Court for the Western District of Pennsylvania and also served on each of the following attorneys via First Class United States Mail on the date set forth below:

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